

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION RECEIVED
 WASHINGTON, D.C. 20554

APR 16 2002

In the Matter of	)	EB Docket No. 02-21	FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY
)		
Peninsula Communications, Inc.)		
	)	File No. EB 01-IH-0609	
Licensee of stations	)	FRN: 0001-5712-15	
KGTL, Homer, Alaska;	)	Facility ID Nos. 52152	
KXBA(FM), Nikiski, Alaska;	)	86717	
KWVW-FM, Homer, Alaska; and	)	52145	
KPEN-FM, Soldotna, Alaska.	)	52149	
)		
Licensee of FM translator stations)		
K292ED, Kachemak City, Alaska;	)	52150	
K285DU, Homer, Alaska;	)	52157	
K285EG and K272DG, Seward, Alaska	)	52158 and 52160	
)		
Licensee of FM translator stations)		
K285EF, Kenai, Alaska;	)	52161	
K283AB, Kenai/Soldotna, Alaska;	)	52155	
K257DB, Anchor Point, Alaska;	)	52162	
K265CK, Kachemak City, Alaska;	)	52154	
K272CN, Homer, Alaska; and	)	52148	
K274AB and K285AA, Kodiak, Alaska	)	52151 and 52164	

To: Administrative Law Judge Richard L. Sippel

Motion to Enlarge Issues by Peninsula Communications, Inc.

Peninsula Communications, Inc. (hereafter "PCI"), by its undersigned counsel,
 and pursuant to the Presiding Officer's Order¹, FCC 02M-18 (released March 15, 2002)
 (hereafter the "Order") hereby respectfully requests that the issues in the above-captioned
 proceeding be enlarged to include the following:

¹ The Order set April 16, 2002, as the date for PCI to submit any motions to add, delete or modify the issues in this proceeding.

To determine whether the Federal Communications Commission has the authority to require Peninsula Communications, Inc. to cease the operation of FM translator stations K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska; K272CN, Homer, Alaska; and K274AB and K285AA, Kodiak, Alaska, while the denial of the 1995 and 1997 license renewal applications for the stations is the subject of a timely appeal pending before the United States Court of Appeals for the District of Columbia Circuit, and/or without PCI first being served with an order to show cause why the operation of the translators should be terminated; and/or without PCI being given the opportunity to object to such a show cause order; and/or without PCI being given the opportunity to request an evidentiary hearing on such order to cease operation.

In support of this request, the following is respectfully submitted for the consideration of the Presiding Judge

I. The Commission's Action Ordering PCI to Terminate the Operation of its FM Translators Failed to Comply With the Requirement of the Communications Act of 1934, as Amended, and Was Thereby Illegal, Null, Void and Of No Effect.

1. In summary, this proceeding was commenced pursuant to the Commission's Order To Show Cause, FCC 02-32 (released February 6, 2002), to determine the facts and circumstances surrounding PCI's continued operation of FM translators K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska; K272CN, Homer, Alaska; and K274AB and K285AA, Kodiak, Alaska (hereafter the "FM Translators"), "... contrary to the Commission's order in *Peninsula Communications, Inc.*, 16 FCC Rcd 11364 (2001), and related violation of Section 416(c) of the Act." A fundamental question before the Presiding Officer is whether the Commission met its statutory obligations before ordering PCI to cease its operation of the FM Translators, and whether, therefore, the Commission had the statutory authority to order PCI to cease the operation of its translators in connection with the issuance of *Peninsula Communications, Inc.*, 16 FCC Rcd 11364

(2001) (hereafter referred to as the "Termination Order"). If not, the current issues before the Presiding Officer in this proceeding may be summarily resolved in favor of PCI.

2. The Commission regulates pursuant to statutes promulgated by the Congress, and memorialized in the Communications Act of 1934, as amended (hereafter the "Act").² It has the authority to license and to regulate PCI's operation of its FM Translators only pursuant to, and in accordance with, the applicable provisions of the Act. The statutory provisions relating to the operation of broadcast stations is found in Title III of the Act.³

3. It is apparently beyond dispute that PCI was fully licensed and authorized by the Commission to operate each of the subject FM Translators in Alaska prior to the release of the Termination Order. The authority, terms, and conditions under which the Commission may order a duly licensed broadcast station to cease operation is clearly and concisely contained in Title III of the Act.

4. Section 312 of the Act⁴ contains the administrative sanction powers of the Commission *vis-à-vis* its broadcast station licensees. That Section provides the Commission with the power and authority to revoke a broadcast station license or construction permit, and to issue a cease and desist order terminating the operation of a broadcast station. However, Section 312(c) requires that before revoking a broadcast license or permit, or ordering a licensee to cease and desist in the operation of a broadcast station, the Commission must "... serve upon the licensee, permittee or person involved

² 47 U.S.C. 151, *et. seq.*

³ 47 U.S.C. 301, *et. seq.*

⁴ It was pursuant to this section of the Act that the subject proceeding was commenced by the Commission.

an order to show cause why an order of revocation or a cease and desist order should not be issued.” The party against whom the cease and desist order is issued then has the opportunity to object, and is thereafter entitled to “...give evidence upon the matter...” in the context of an administrative hearing. Prior to the issuance of the Termination Order, the Commission did not, and has not to this time, issued and/or served upon PCI any order to show cause why it should be required to terminate the operation of the subject FM Translators.⁵ Stated differently, prior to ordering PCI to terminate the operation of the FM Translators in the Termination Order the Commission failed to follow the requirements of Section 312(c) of the Act, thereby rendering its order unlawful, and null, void and of no effect. Having failed to follow the legal dictates of the Act prior to issuing the order to terminate the operation of the FM Translators, the Commission lacked the statutory power and authority to take that action.

5. Any inquiry into the facts and circumstances surrounding PCI’s continued operation of the FM Translators after the release of the Termination Order must address the underlying issue of whether the Commission’s order for PCI to cease its operation of the FM Translators was legally sanctioned, and enforceable, under the Act. PCI respectfully requests that the Presiding Judge enlarge the issues in this proceeding to allow for a full evidentiary inquiry into this question of fact and law.

⁵ The Termination Order is attached hereto as Exhibit A. It contains a lengthy recitation of the history of the proceeding involving PCI’s FM Translators. The Termination Order does not contain any reference to any show cause order issued prior to PCI being required to cease operating its FM Translators. The show cause proceeding involving the two Seward, Alaska, FM translators that is discussed in the Termination Order, remains pending before the Commission.

II. PCI'S CONTINUED OPERATION OF THE FM TRANSLATORS WHILE ITS APPEAL IS PENDING BEFORE THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT IS CONSISTENT WITH THE COMMISSION'S POLICY OF ALLOWING SUCH OPERATION UNDER THIS CIRCUMSTANCE, AND THE STATUTORY REQUIREMENT OF THE COMMUNICATIONS ACT THAT THE LICENSES REMAIN IN FULL EFFECT PENDING THE OUTCOME OF THE COURT APPEAL.

6. Following the submission in 1995 of the license renewal applications for the FM Translators that began this proceeding, the Commission issued post card authorizations to PCI noting the receipt of the applications. Each of the authorizations contained the following language, "operation beyond the license expiration date is authorized pending final determination on your application."⁶ While the proceeding involving the FM Translator license renewal applications has remained pending and not final from either an FCC or judicial appeal standpoint, PCI has continued to operate the FM Translators. The continuing authority expressly granted to PCI in writing in the post card authorizations is wholly consistent with the Commission's rules, regulations, policies, and the requirements of the Act.

7. Section 1.62 of the Commission's Rules and Regulations, 47 C.F.R. 1.62, provides the procedures for "Operation Pending Action on Renewal Applications" for broadcast stations. That rule provides, in pertinent part, as follows:

(a)(1) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal of license with respect to any activity of a continuing nature, in accordance with the provisions of section 9(b) of the Administrative Procedure Act, such license shall continue in effect without further action by the Commission until such time as the Commission shall make a final determination with respect to the renewal application...

⁶ See Exhibit B for copies of the post cards, as previously submitted to the Commission on October 4, 2001.

Section 73.3523(d)(2) of the Commission's Rules and Regulations, 47 C.F.R.

73.3523(d)(2), gives guidance within the context of a license renewal proceeding as to when an application is "pending". That section provides, in pertinent part:

(d)(2) An application shall be deemed to be pending before the Commission from the time an application is filed with the Commission until an order of the Commission granting or denying the application is no longer subject to reconsideration by the Commission or to review by any court (emphasis added).

8. Thus, under the Commission's broadcast license renewal rules and policies, a licensee is, and has always been, allowed to continue to operate its broadcast station within the context of a license renewal proceeding so long as the license renewal application remains subject to "...reconsideration by the Commission or to review by any court". This policy is effective no matter how heinous or otherwise outrageous the underlying conduct of the licensee may have been to warrant the denial of a license renewal application and/or the revocation of the license. *C.f. Contemporary Media, Inc. et. al. v. Federal Communications Commission*, 215 F.3d 187 (D.C. Cir. 2000). In the *Contemporary Media* case, as in all other license termination cases, the license has remained in effect and the licensee has continued to operate its broadcast station following license termination until the Commission's action became final and no longer subject to judicial review. See, *Contemporary Media, Inc.*, FCC 02-65 (released February 29, 2002), where the broadcast licensee continued the operation of its stations following license revocation and until the denial of review by the United States Supreme Court became a final action.

9. The continuing viability of a broadcast license, and the ability of broadcast license renewal applicants to continue to operate their stations during judicial review of a

Commission action, is a matter of law, and not something left to the discretion of the Commission. Section 307(c)(3) of the Act provides the following in the context of license renewal applications:

(3) CONTINUATION PENDING DECISION. Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect. (emphasis added).

Section 405 provides for the filing of petitions for reconsideration of actions by the Commission. Section 405(b)(2) also specifies that appeals taken under Section 402(a) come within the scope of that section. As the record herein demonstrates, PCI's license renewal applications are the subject of applications for review before the United States Court of Appeals for the District of Columbia Circuit that were duly and timely filed pursuant to Section 405(b)(2). PCI's licenses, and its right to continue to operate the FM Translators, remain valid under the above-referenced provisions of the Act, which require that the Commission continue the FM Translator licenses in effect until a final decision on the matter. Thus, it appears that the Commission's action in the Termination Order requiring PCI to cease the operation of its FM Translators also became null and void upon the timely filing of the PCI appeal to the United States Court of Appeals.

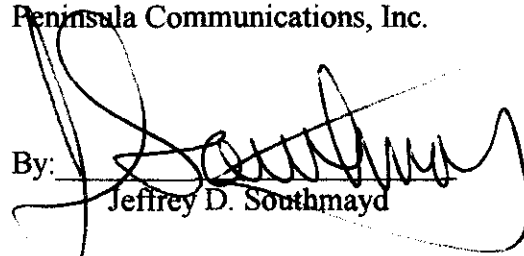
10. Based on the foregoing, PCI respectfully submits that substantial and material questions of fact and law exist whether the Commission had the statutory authority to require PCI to terminate the operation of its FM Translators in the Termination Order, and whether PCI's subsequent judicial appeal of that order required to Commission to continue its FM Translator licenses in effect, and thereby allow PCI to continue to operate the FM Translators. Without a determination of these questions of fact and law, PCI submits that no rational determination can be made on the full extent of the facts and

circumstances surrounding PCI's continued operation of the FM Translators subsequent to the release of the Termination Order.

Wherefore, good cause having been shown, PCI respectfully requests that the issues in this proceeding be enlarged to include the above issue.

Respectfully submitted,

Peninsula Communications, Inc.

By: 

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Its Attorney

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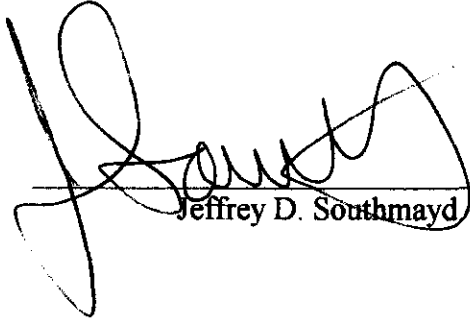
Date: April 16, 2002

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were sent by first class United States mail, postage pre-paid, and telecopier on this 16th day of April 2002, to the following:

Administrative Law Judge Richard L. Sippel
Federal Communications Commission
445 12th Street, S.W., Room 1-C749
Washington, D.C. 20554

James Shook
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
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Jeffrey D. Southmayd

EXHIBIT A

Federal Communications Commission**FCC 01-159**

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Peninsula Communications, Inc.)	
)	
Applications for Renewal of License for FM)	
Translator Stations)	
)	
K272DG and K285EG, Seward, Alaska;	)	File Nos. BRFT-951124UT, YU, YW, ZE
K285EF, Kenai, Alaska;	)	through ZH, ZJ, ZK; BRFT-970930US, YA
K283AB, Kenai/Soldotna, Alaska;	)	through YH
K257DB, Anchor Point, Alaska;)	
K265CK, Kachemak City, Alaska;	)	Facility ID Nos.: 52161, 52155, 52151,
K272CN, Homer, Alaska; and	)	52164, 52160, 52158, 52162, 52154 and
K274AB and K285AA, Kodiak, Alaska	)	52148
)	
And)	
)	
Applications to Assign the Licenses of)	
)	
K272DG and K285EG, Seward, Alaska;)	
K285EF, Kenai, Alaska;	)	File Nos. BALFT-970701TR through TZ
K283AB, Kenai/Soldotna, Alaska;)	
K257DB, Anchor Point, Alaska;)	
K265CK, Kachemak City, Alaska;)	
K272CN, Homer, Alaska; and)	
K274AB and K285AA, Kodiak, Alaska)	
)	
From Peninsula Communications, Inc. to)	
Coastal Broadcast Communications, Inc.)	

MEMORANDUM OPINION AND ORDER AND ORDER TO SHOW CAUSE

Adopted: May 10, 2001

Released: May 18, 2001

By the Commission:

1. In this Order, we dismiss as untimely a pleading styled "Rejection of Conditional License Renewal and Assignment of License Grants," filed on March 15, 2000, by Peninsula Communications, Inc. ("Peninsula"). We also, on our own motion: (1) rescind the 1995 and 1997 conditional grants of the above-captioned renewal applications; (2) rescind the conditional grants of the above-captioned assignment applications; (3) dismiss the 1995 and 1997 renewal applications, cancel the call signs and terminate the operating authority for the translator stations K285EF, Kenai; K283AB, Kenai/Soldotna; K257DB, Anchor Point; K265CK, Kachemak City; K272CN, Homer, and K274AB and K285AA, Kodiak; (4) grant unconditionally the above-captioned renewals for translator stations K272DG and K285EG, Seward; and (5) order Peninsula pursuant to section 316 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 316, to show cause why its licenses for translators K272DG and K285EG, Seward, should not

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be modified.¹ Our reasons follow.

I. Background

2. This case primarily involves our eligibility and signal delivery requirements for FM translators, which appear in 47 C.F.R. §§ 74.1231(b), 74.1232(d). Briefly, those provisions provide that other-area or non-fill-in translators may only retransmit primary FM station signals received by the translator directly over-the-air and that authorization for an "other-area" or "non-fill-in" translator will not be granted to persons interested in or connected with the commercial "primary FM station."² These rules became effective on June 1, 1991, with pre-existing translators required to comply no later than June 1, 1994.³ As the Commission explained in establishing these rules, translators are intended to provide "supplementary service to areas in which direct reception of FM radio broadcast stations is unsatisfactory due to distance or intervening terrain barriers," and the governing rules are meant "to ensure that the translator service does not adversely affect the operation of FM radio broadcast operations." *Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations*, *supra* note 3, 8 FCC Rcd at 5093.

3. Peninsula is the licensee and assignor of the captioned FM translator stations K272DG and K285EG Seward; K285EF, Kenai; K283AB, Kenai/Soldotna; K257DB, Anchor Point; K265CK, Kachemak City; K272CN, Homer; and K274AB and 285AA, Kodiak, Alaska. Peninsula's nine translator stations are all non-fill-in stations that rebroadcast primary stations licensed to Peninsula.⁴ The Seward translators, K272DG and K285EG, have received and continue to receive their primary stations' signals for rebroadcast by methods other than directly over-the-air. In addition, as explained herein, the Seward translators are operating in conformance with our rules pursuant to waivers, while the seven remaining translators are operating in violation of our translator rules and, except for the Kodiak translators,⁵ have been since at least June 1, 1994.

¹ As explained herein, we believe the Seward translators currently have the benefit of waivers of sections 73.1231(b) and 73.1232(d) of the Commission's rules, which we believe can best be addressed by following the procedures set forth in section 316 of the Act and section 1.87 of the Commission's rules.

² An "other-area" or "non-fill-in" translator is one whose coverage contour extends beyond the protected service contour of its primary station. See 47 C.F.R. §74.1201(h) and (i). A "primary" FM station is the station whose signal a translator retransmits. 47 C.F.R. §74.1201(d).

³ See *Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations*, 5 FCC Rcd 7212 (1990), *modified*, 6 FCC Rcd 2334 (1991), *recon. denied*, 8 FCC Rcd 5093 (1993).

⁴ The Kodiak translators ceased rebroadcasting Peninsula's KPEN-FM, Soldotna and KWVV-FM, Homer, Alaska on November 12, 1997, and remained silent between that date and October 29, 1998. On October 29, 1998, the Kodiak translators began rebroadcasting the signal of a noncommercial FM translator in Kodiak in accordance with our translator rules. See *December 1998 MO&O*, 13 FCC Rcd at 23998 n. 13. However, according to a "Request for Investigation," filed February 12, 2001, by Kodiak Island Broadcasting Company, Inc. ("KIB"), licensee of stations KVOK and KRXX(FM), Kodiak, the Kodiak translators again began to rebroadcast Peninsula's stations KPEN-FM and KWVV-FM in late January 2001. KSRM, Inc., licensee of stations KSRM, Soldotna, and KWHQ(FM), Kenai, filed comments in support of KIB's request on February 15, 2001. On March 15, 2001, Peninsula responded to KIB's "Request for Investigation" and reported that the Kodiak translators had recently recommenced the rebroadcast of stations KPEN-FM and KWVV-FM.

⁵ See footnote 4, *supra*.

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4. On November 24, 1995, Peninsula filed license renewal applications for the nine translator stations ("1995 renewal applications"). On September 11, 1996, the staff, in addressing petitions to deny filed against six of the nine 1995 renewal applications,⁶ determined that Peninsula had operated the non-Seward translator stations in violation of our translator rules' ownership restrictions since June 1, 1994. See 47 C.F.R. § 74.1232(d). The staff also concluded that, although the Seward translator stations had previously received waivers of this rule, continued waivers were not warranted. Finally, the staff deferred action on the 1995 renewal applications for a period of 60 days to allow Peninsula to file assignment applications for the nine translators in order to come into compliance with 47 C.F.R. § 74.1232(d). See *Letter to Jeffrey D. Southmayd, Esq.*, Ref. No. 1800B4-AJS (Chief, Audio Services Division, Mass Media Bureau, September 11, 1996) ("*September 1996 letter*"). Ultimately, acceptable assignment applications were filed on July 1, 1997.⁷

5. On November 6, 1997, the staff granted the applications to assign the licenses for all nine translators. So that the assignments could go forward, the staff also granted all nine 1995 renewal applications, conditioned upon consummation of the authorized assignments. Finally, the staff conditioned consummation of the assignments on grant of the recently-filed 1997 renewal applications. See *Letter to Jeffrey D. Southmayd, Esq.*, Ref. No. 1800B3-BSH (Chief, Audio Services Division, Mass Media Bureau, November 6, 1997) ("*November 1997 staff decision*"). The *November 1997 staff decision* stated that failure to meet the divestiture condition would render grant of the 1995 renewal applications null and void. Peninsula did not seek reconsideration or review of the *November 1997 staff decision*. However, Cobb Communications, Inc., Glacier Communications, Inc., KSRM, Inc., and King Broadcasters, Inc. (collectively referred to as "Petitioners") filed both a petition for reconsideration and an application for review of the *November 1997 staff decision*. As was the case with respect to the 1995 renewal applications, Petitioners did not challenge the license renewals or assignments for K257DB, Anchor Point; K265CK, Kachemak City; or K272CN, Homer.

6. In December 1998, the Commission dismissed and denied, respectively, Petitioners' petition for reconsideration and their application for review. *Peninsula Communications, Inc.*, 13 FCC Rcd 23992 (1998) ("*December 1998 MO&O*"). Essentially, Petitioners had argued that the staff should have revoked Peninsula's licenses because of the rule violations and that the staff erred in concluding instead that Peninsula could sell the subject translator stations. In our decision, we noted that, in the absence of an unresolved basic character qualification issue, "there can be no doubt as to the Commission's authority to cure or remedy [the violation of the ownership restrictions] by granting the renewal applications conditioned on divestiture of the translators." *December 1998 MO&O*, 13 FCC Rcd at 23996. In the *December 1998 MO&O*, we also granted Peninsula's 1997 renewal applications,⁸

⁶ The six challenged translator stations were K272DG and K285EG, Seward; K285EF, Kenai; K283AB, Kenai/Soldotna; and K274AB and K285AA, Kodiak.

⁷ Peninsula and Coastal Broadcast Communications, Inc. ("Coastal") originally filed applications to assign the nine translator stations on November 14, 1996. Those applications were dismissed as patently not in accordance with the Commission's rules. See *Letter to Jeffrey D. Southmayd, Esq., et al.*, Ref. No. 1800B3-BSH (Chief, Audio Services Division, Mass Media Bureau, June 17, 1997) ("*June 1997 Staff Decision*"). The *June 1997 Staff Decision* afforded the parties ten business days to file assignment applications that would fully comply with the Commission's rules. Peninsula and Coastal then filed the above captioned assignment applications.

⁸ The brevity of the time period between the filing of the 1995 and 1997 renewal applications was the result of the Commission's decision to modify FM translator license terms to run concurrently with the terms of (continued....)

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conditioned on consummation of the authorized assignments, and denied requests for waiver of 47 C.F.R. § 74.1231(b), the over-the-air delivery restrictions, filed by Coastal for the Kodiak translators. However, with respect to the Seward translators, we determined that discontinuation of the previously granted waivers of 47 C.F.R. § 74.1231(b) would require termination of the operations of those translators and would not serve the public interest at that time since the translators provided Seward's only FM service. We noted that a construction permit had been issued to William M. Holzheimer, one of the principals of Glacier Communications, Inc., for a new FM station in Seward. In regard thereto, we stated that, if and when that full service FM station commenced operation, we "may consider whether the circumstances under which the waivers were granted have so changed as to warrant termination of the Seward translator operations." See *December 1998 MO&O*, 13 FCC Rcd at 23997-99.

7. Peninsula and Glacier sought reconsideration of the *December 1998 MO&O*. Peninsula disputed the conditional grants of the 1995 and 1997 renewal applications. It also contested the determination that the seven subject translators other than the ones in Seward had been operating in violation of 47 C.F.R. § 74.1232(d) since June 1, 1994 and the determination that continued waiver of 47 C.F.R. § 74.1232(d) was not warranted for the two Seward translators. In addition, Peninsula, but not Coastal, requested reconsideration of the denial of requests for waivers of 47 C.F.R. § 74.1231(b) for the Kodiak translators. Finally, Peninsula objected to our statement that we would consider whether to terminate the Seward translators' 47 C.F.R. § 74.1231(b) waivers if and when an unbuilt, full service FM station authorized in Seward commenced operations. Glacier argued that Peninsula's waivers of the over-the-air reception rule, 47 C.F.R. § 74.1231(b), should be discontinued for the Seward translators.

8. On February 14, 2000, we dismissed Peninsula's petition for reconsideration of the *December 1998 MO&O*. *Peninsula Communications, Inc.*, 15 FCC Rcd 3293 (2000) ("*February 2000 MO&O*"). We ordered Peninsula to consummate the authorized assignments within thirty days of the decision, and we directed the staff to rescind the conditional grants of the 1995 and 1997 license renewal applications, cancel the relevant call signs and terminate the translators' operating authority if Peninsula did not comply with the divestiture requirement. *February 2000 MO&O*, 15 FCC Rcd at 3294. We also granted Mr. Holzheimer's application for a license to cover the construction permit for full power FM station KPFN(FM), Seward, Alaska and terminated the waivers of the 47 C.F.R. § 74.1231(b) signal delivery rule for the subject Seward translators effective 60 days from the release date of the order. *Id.* at 3295-96. In so doing, we took note of Glacier's argument that the Peninsula translators were taking radio revenues out of the small community of Seward, creating financial difficulties for the new FM full service station, KPFN(FM), and we concluded that permitting Peninsula to continue to deliver a distant signal to Seward would be a clear detriment to the continued viability of full service broadcast stations licensed to Seward. *Id.* On February 23, 2000, Peninsula filed with the Commission a motion to stay the effect of the *December 1998 MO&O* and the *February 2000 MO&O* pending the filing and resolution of an appeal it intended to file.⁹

9. On March 8, 2000, Peninsula filed an appeal of the Commission's *February 2000 MO&O* with the United States Court of Appeals for the District of Columbia Circuit ("Court"). That same day,

(Continued from previous page)

FM primary stations. See *In the Matter of Modifying Renewal Dates for Certain Stations Licensed under Part 74 of the Commission's Rules and Revising FCC Form 303-S, Report and Order*, 9 FCC Rcd 6504 (1994).

⁹ In a supplement to that motion, filed on March 3, 2000, Peninsula attached a letter from Coastal. That letter made plain that Coastal was no longer willing to buy Peninsula's translators for the price agreed upon in 1996.

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Peninsula filed an Emergency Motion for Stay of the *February 2000 MO&O* with the Court arguing, *inter alia*, that, pursuant to 47 U.S.C. § 309(k), the Commission was required to grant its renewal applications unconditionally and that its operating authority could be terminated only after a hearing pursuant to 47 U.S.C. § 312.¹⁰ On March 14, 2000, the Court denied Peninsula's Emergency Motion for Stay. On March 15, 2000, Peninsula filed with the Commission the pleading now before us, a "Rejection of Conditional License Renewal and Assignment of License Grants." By order dated July 11, 2000, the Court dismissed Peninsula's appeal without prejudice to refile following the Commission's resolution of the "Rejection of Conditional License Renewal and Assignment of License Grants."

10. Peninsula's "Rejection of Conditional License Renewal and Assignment of License Grants" is premised on 47 C.F.R. § 1.110. Section 1.110 provides that, "[w]here the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, ... the action of the Commission shall be considered as a grant of such application unless the applicant shall within 30 days from the date on which such grant is made... file with the Commission a written request rejecting the grant as made." Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing." In its pleading, Peninsula rejects the action of the Commission granting Peninsula's 1995 and 1997 license renewal applications conditioned on divestiture of the translator licenses and "upon the other conditions contained in the orders." Peninsula also states that it rejects the staff's grant of the 1997 assignment applications "subject to the conditions modifying the licenses for the two Seward stations, and the other conditions placed thereon." Peninsula asserts that, pursuant to 47 C.F.R. § 1.110, the Commission must now vacate its original action on the applications and set the applications for hearing. Peninsula states that it considers the Commission's actions in the *December 1998 MO&O* and *February 2000 MO&O* "vacated *ab initio* as of this date, null, void, and of no further force and effect, and requiring no further action by Peninsula in accordance therewith." Peninsula continues to operate the subject nine translator stations.

II. Discussion

11. After carefully considering all the circumstances, we believe that Peninsula's invocation of 47 C.F.R. § 1.110 is untimely and warrants dismissal. Peninsula's "Rejection of Conditional License Renewal and Assignment of License Grants" was not filed until more than two years after conditional grants of the 1995 renewal applications and 1997 assignment applications, which occurred as a result of the *November 1997 staff decision*. Peninsula did not seek reconsideration of the *November 1997 staff decision*. Rather, Peninsula actually accepted and endorsed the November 1997 conditional grants of the 1995 renewal applications observing that the conditional grants were "fair and consistent with the facts and existing legal precedent for approving such applications." See Peninsula's December 30, 1997 Opposition to Application for Review, at page 8. 47 C.F.R. § 1.110 "does not allow applicants first to

¹⁰ 47 U.S.C. § 309(k)(1) sets forth the standards the Commission must reference in determining whether to renew a license for a broadcast station. Section 309(k)(2) of the Act provides that if the licensee fails to meet one of the renewal standards, the Commission may grant the application subject to appropriate terms and conditions. That section, in conjunction with section 309(k)(3), alternatively provides that the Commission may deny the renewal application after a hearing. As our discussion in paragraph 13, *infra*, makes clear, we believe that the staff's imposition of a divestiture condition upon Peninsula was necessary to correct the serious, ongoing violations of our translator rules with respect to the translators in Anchor Point, Kachemak City, Homer, Kenai, and Kodiak. Finally, inasmuch as we are granting unconditional renewals for the Seward translators, Peninsula's section 309(k) argument relative to those licenses is now moot.

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accept a partial grant, yet later to seek reconsideration of its conditions." *Tribune Company v. FCC*, 133 F.3d 61, 66 (D.C. Cir. 1998), citing *Central Television, Inc. v. FCC*, 834 F.2d 186, 190 (D.C. Cir. 1987). An applicant must file a written request rejecting a conditional grant within 30 days from the date on which the conditional grant is made; otherwise, the action of the Commission shall be considered as a grant of the application and that grant is not subject to appeal by the applicant. See *Mobile Communications Corporation of America v. FCC*, 77 F.3d 1399, 1404 (D.C. Cir. 1996), cert. denied, 117 S.Ct. 81 (1996), citing *Central Television, Inc. v. FCC*, 834 F.2d 186, 190-91 (D.C. Cir. 1987). Accordingly, we find the "Rejection of Conditional License Renewal and Assignment of License Grants" at issue here to be untimely, and it is hereby dismissed.¹¹ See 47 C.F.R. § 1.110; see also *Capital Telephone Co. v. FCC*, 498 F.2d 734, 740 (1974).

12. In light of the dismissal of Peninsula's belated "Rejection of Conditional License Renewal and Assignment of License Grants," we must now determine the fate of Peninsula's translators. In this regard, the failure to consummate the assignments, coupled with Coastal's apparent unwillingness to go forward with the assignments at any time in the foreseeable future, compels the conclusion that the conditions attached to the grants of Peninsula's 1995 and 1997 renewals were not (and likely will never be) met. Consistent with the *February 2000 MO&O*, we could rescind the 1995 and 1997 renewal grants and order Peninsula's translators off the air immediately. However, we believe our ultimate decision should account for the different factual circumstances attending the different sets of translators. Accordingly, on our own motion, we are modifying our *February 2000 MO&O* as set forth in this Order.¹²

13. K257DB, Anchor Point; K265CK, Kachemak City; K272CN, Homer; K285EF, Kenai; K283AB, Kenai/Soldotna; and K274AB and K285AA, Kodiak. The staff correctly concluded in 1996 that Peninsula had been operating these facilities contrary to the requirements of 47 C.F.R. § 74.1232(d) since June 1, 1994. See *September 1996 letter*. To rectify this situation, the *November 1997 staff decision* expressly conditioned grant of the translator stations' 1995 renewal applications on consummation of their assignment to Coastal.¹³ As noted, consummation of the assignments has not occurred and will not occur. Thus, Peninsula has not fulfilled the condition notwithstanding our explicit warning that its failure to divest would result in rescission of the grants of the 1995 and 1997 renewal applications. See *February 2000 MO&O*, 15 FCC Rod at 3294. Accordingly, as to these stations, we rescind the conditional grants of the 1995 and 1997 renewal applications, rescind the 1997 conditional assignment grants, dismiss the 1995 renewal applications and dismiss, as moot, the 1997 assignment applications and 1997 renewal applications.¹⁴ *P&R Termer v. FCC*, 743 F.2d 918, 928 (D.C. Cir. 1984) (termination of license for failure to meet license condition did not require hearing). Finally, inasmuch as Peninsula's authority to

¹¹ In light of our disposition of the 1995 renewal applications, we need not address the effect of Peninsula's rejection with respect to the 1997 renewal applications. See paragraphs 13-14, *infra*.

¹² In light of our decision to modify our prior order, we do not believe enforcement action with respect to our prior order is warranted. We instruct the staff to move quickly and strongly, however, to recommend or take appropriate enforcement action if there is any non-compliance with the provisions of this order.

¹³ Although the Petitioners filed a petition for reconsideration and application for review of the *November 1997 staff decision* with respect to six of the nine subject translators, Peninsula did not timely contest the *November 1997 staff decision*.

¹⁴ As consummation of the authorized assignments has not occurred and will not occur, we also rescind the 1997 conditional assignment grants for stations K272DG and K285EG, Seward, and we dismiss, as moot, the 1997 assignment applications for those Seward translator stations.

Federal Communications Commission**FCC 01-159**

operate these translators has expired, Peninsula must cease operations by 12:00 midnight the day after release of this Order. Further operations by Peninsula after this time may subject it to serious sanctions, including but not limited to forfeitures under section 503(b) of the Act. *See also* 47 U.S.C. §§ 401, 501 and 502.

14. K272DG and K285EG, Seward ("Seward translators"). The procedural posture of the Seward translators is akin to that of the other seven translators. However, there is one significant difference. In this regard, the staff had explicitly granted Peninsula waivers of 47 C.F.R. §§ 74.1231(b) and 74.1232(d), waivers that we declined to rescind in our *December 1998 MO&O* because of concerns about loss of FM programming to the public. At the same time, however, we also indicated that commencement of operations by a new full service FM station in Seward would justify review of the situation to determine whether the waivers should continue. In our *February 2000 MO&O*, we ordered termination of the Seward waivers within 60 days of the release of that order in light of the commencement of operations of KPFN(FM), Seward. Peninsula has challenged this result in Court and we believe that section 316 of the Act affords the most direct and expedient means of resolving the matter.¹⁵ Accordingly, we will grant unconditionally Peninsula's 1995 and 1997 renewals for the Seward translators. In addition, pursuant to section 316 of the Act, we will order Peninsula to show cause why its Seward translators' licenses should not be modified to discontinue the previously granted waivers of 47 C.F.R. §§ 74.1231(b) and 74.1232(d). Should Peninsula protest the proposed order of modification, we intend to rule on the matter expeditiously.¹⁶ If Peninsula's licenses are modified,¹⁷ we expect it to operate the translators in accordance with those authorizations, and, if it is unable to do so, to terminate their operation immediately.

III. ORDERING CLAUSES

15. Accordingly, IT IS ORDERED that Peninsula Communications, Inc.'s "Rejection of Conditional License Renewal and Assignment of License Grants" IS DISMISSED.

16. IT IS FURTHER ORDERED that the conditional grants of the 1995 and 1997 renewal applications filed by Peninsula Communications, Inc. for translator stations K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska; K272CN, Homer, Alaska; K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; K274AB and K285AA, Kodiak, Alaska; and K272DG and K285EG, Seward, Alaska, ARE RESCINDED.

17. IT IS FURTHER ORDERED that the conditional grants of the 1997 applications to assign the licenses for translator stations K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska;

¹⁵ Section 316 of the Act allows us to modify a license following notification to the licensee and according the licensee 30 days within which to protest the proposed order of modification. *See also* 47 C.F.R. § 1.87.

¹⁶ Any order modifying Peninsula's licenses will be issued by the Commission. If there are substantial and material questions of fact requiring a hearing pursuant to section 316(a)(3) of the Act, the Mass Media Bureau shall designate the matter for hearing. The staff may also decide not to modify the licenses on delegated authority.

¹⁷ We are aware that termination of the waivers of the over-the-air delivery restrictions for the Seward translators may result in termination of service to a number of Alaskan citizens who claim that the service provided by these translators is critical and that the full-service AM and FM stations licensed to Seward will not be adequate substitutes. *See* Peninsula's March 6, 2000, Statement for the Record with attached letters.

Federal Communications Commission**FCC 01-159**

K272CN, Homer, Alaska; K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; K274AB and K285AA, Kodiak, Alaska; and K272DG and K285EG, Seward, Alaska, from Peninsula Communications, Inc. to Coastal Broadcast Communications, Inc. ARE RESCINDED.

18. IT IS FURTHER ORDERED that the 1995 and 1997 renewal applications filed by Peninsula Communications, Inc. for translator stations K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska; K272CN, Homer, Alaska; K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; and K274AB and K285AA, Kodiak, Alaska, ARE DISMISSED.

19. IT IS FURTHER ORDERED that the 1997 applications to assign the licenses for translator stations K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska; K272CN, Homer, Alaska; K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; and K274AB and K285AA, Kodiak, Alaska, from Peninsula Communications, Inc. to Coastal Broadcast Communications, Inc. ARE DISMISSED.

20. IT IS FURTHER ORDERED that call signs for translator stations K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska; K272CN, Homer, Alaska; K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; and K274AB and K285AA, Kodiak, Alaska, ARE DELETED.

21. IT IS FURTHER ORDERED that Peninsula Communications, Inc. SHALL TERMINATE OPERATIONS for translator stations K257DB, Anchor Point, Alaska; K265CK, Kachemak City, Alaska; K272CN, Homer, Alaska; K285EF, Kenai, Alaska; K283AB, Kenai/Soldotna, Alaska; and K274AB and K285AA, Kodiak, Alaska, effective at 12:00 midnight on the day after release of this Order.

22. IT IS FURTHER ORDERED that the 1995 and 1997 renewal applications filed by Peninsula Communications, Inc. for translator stations K272DG and K285EG, Seward, Alaska, ARE GRANTED UNCONDITIONALLY.

23. IT IS FURTHER ORDERED that the 1997 applications to assign the licenses for translator stations K272DG and K285EG, Seward, Alaska, from Peninsula Communications, Inc. to Coastal Broadcast Communications, Inc. ARE DISMISSED.

24. IT IS FURTHER ORDERED that, pursuant to 47 U.S.C. § 316(a) and 47 C.F.R. § 1.87, Peninsula Communications, Inc., IS DIRECTED TO SHOW CAUSE why the licenses for translator stations K272DG and K285EG, Seward, Alaska, SHOULD NOT BE MODIFIED:

[1.] To terminate waivers of 47 C.F.R. § 74.1231(b); and

[2.] To terminate waivers of 47 C.F.R. § 74.1232(d).

25. Pursuant to 47 C.F.R. § 1.87, Peninsula Communications, Inc. may, not later than 30 days from the release of this Order, file a written protest showing with particularity why the licenses for translator stations K272DG and K285EG, Seward, Alaska, should not be modified as proposed. Any protest will be considered fully before the Commission decides whether to modify the subject licenses. If a hearing is deemed necessary because the protest raises a substantial and material question of fact, the Mass Media Bureau shall designate such hearing in a subsequent order. If no protest is filed by the date referenced above, Peninsula Communications, Inc. will be deemed to have consented to the modification as proposed and the Commission will issue a final order to that effect.

Federal Communications Commission**FCC 01-159**

26. IT IS FURTHER ORDERED that the Mass Media Bureau SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this Memorandum Opinion and Order and Order to Show Cause to:

Peninsula Communications, Inc.
c/o Jeffrey D. Southmayd, Esquire
Southmayd & Miller
1220 19th Street, N.W., Suite 400
Washington, D.C. 20036

Peninsula Communications, Inc.
Post Office Box 109
Homer, Alaska 99603

Chester P. Coleman and Phoenix Broadcasting, Inc.¹⁸
c/o David Tillotson, Esquire
4606 Charleston Terrace, N.W.
Washington, D.C. 20007

Kodiak Island Broadcasting Company, Inc.
c/o Henry A. Solomon, Esquire
Garvey, Schubert & Barer
1000 Potomac Street, N.W., 5th Floor
Washington, D.C. 20007

KSRM, Inc.
c/o Peter Gutmann, Esquire
Pepper & Corazzini, L.L.P.
1776 K Street, N.W., Suite 200
Washington, D.C. 20006

FEDERAL COMMUNICATIONS COMMISSION

Magalie Román Salas
Secretary

¹⁸ Mr. Coleman and Phoenix are successors in interest to King Broadcasters, Inc. and Glacier Communications, Inc., two of the Petitioners first identified in paragraph 5, *supra*.

EXHIBIT B

SOUTHMAYD & MILLER

1220 Nineteenth Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 331-4100
(202) 331-4123 Fax

October 4, 2001

Jeffrey D. Southmayd
jdsouthmayd@msn.com

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

OCT - 4 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Peninsula Communications, Inc.
File No. EB 01-IH-0430
NAL/ Acct. No. 200132080060

Dear Ms. Salas;

Transmitted herewith on behalf of Peninsula Communications, Inc. is a supplement to the declaration of Mr. David F. Becker, its president, filed on September 10, 2001.

The supplement consists of copies of the postcards received by Peninsula from the Commission in response to the submission of its 1995 license renewal applications for the FM translator stations that are the subject of the above-referenced notice. In each case, the postcards specifically indicate:

**OPERATION BEYOND THE LICENSE EXPIRATION DATE IS
AUTHORIZED PENDING FINAL DETERMINATION ON YOUR
APPLICATION (emphasis added).**

Since there has been no "final determination" made on the license renewal applications, or those subsequently filed in 1997, Peninsula is fully authorized to continue to operate its translators under the express language of the Commission's rules, policies, and instructions on the attached documents. Peninsula intends to continue such operation until such time as there is some **final determination** on the license renewal applications requiring their termination.

Peninsula requests that this supplement be included and considered in connection with its Petition For Reconsideration that was filed in connection with this matter on September 28, 2001.

Very truly yours,
Peninsula Communications, Inc.

By: 

Jeffrey D. Southmayd

Its Attorney

Enclosure

Copies: Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Enforcement Branch
Service List U. S. Court of Appeals Case No. 01-1273

THIS IS TO NOTIFY YOU OF ACCEPTANCE
FOR FILING OF APPLICATION
BRFT -951124UT RECEIVED ON
11/24/95 FOR RENEWAL OF LICENSE

FREQUENCY: 104.9 MHZ

LOCATION: KENAI, AK

OPERATION BEYOND THE LICENSE
EXPIRATION DATE IS AUTHORIZED
PENDING FINAL DETERMINATION ON
YOUR APPLICATION

POST THIS CARD WITH YOUR LICENSE.



FCC 372 (4/95) NOTIFICATION

FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G111

PENINSULA COMMUNICATIONS, INC.
K285EF FM TRANSLATOR
C/O POST OFFICE BOX 103
HOMER, AK 99603



THIS IS TO NOTIFY YOU OF ACCEPTANCE
FOR FILING OF APPLICATION
BRFT -951124YU RECEIVED ON
11/24/95 FOR RENEWAL OF LICENSE

FREQUENCY: 104.5 MHZ

LOCATION: KENAI & SOLDOTNA, AK

OPERATION BEYOND THE LICENSE
EXPIRATION DATE IS AUTHORIZED
PENDING FINAL DETERMINATION ON
YOUR APPLICATION

POST THIS CARD WITH YOUR LICENSE.



FCC 372 (4/95) NOTIFICATION

FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G111

PENINSULA COMMUNICATIONS, INC.
K283AB FM TRANSLATOR
C/O PO BOX 103
HOMER, AK 99603

B 1 c 4



FROM : KWAVE/KPEN/KBAY/KGTL RADIO

FAX NO. : 907-235-6683

Sep. 19 2001 10:41PM P3

FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G111

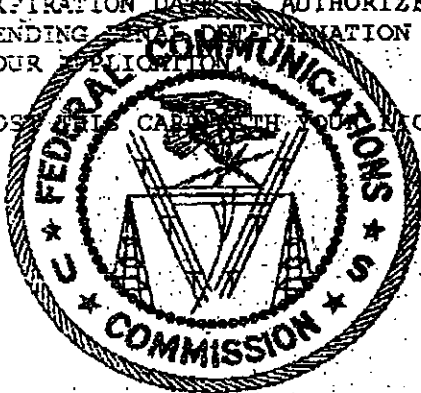
THIS IS TO NOTIFY YOU OF ACCEPTANCE
FOR FILING OF APPLICATION
BRFT -951124ZF RECEIVED ON
11/24/95 FOR RENEWAL OF LICENSE

FREQUENCY: 99.3 MHZ

LOCATION: ANCHOR POINT, ETC., AK

OPERATION BEYOND THE LICENSE
EXPIRATION DATE IS AUTHORIZED
PENDING FINAL DETERMINATION ON
YOUR APPLICATION

POSTAGE WILL BE PAID WITH YOUR LICENSE.



FOC 372 (4/95) NOTIFICATION

PENINSULA COMMUNICATIONS, INC.
K257DB FM TRANSLATOR
C/O PO BOX 109
HOMER, AK 99603



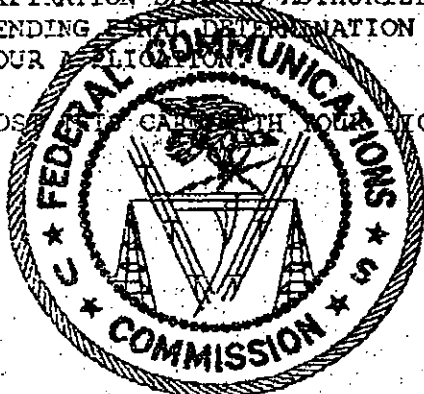
THIS IS TO NOTIFY YOU OF ACCEPTANCE
FOR FILING OF APPLICATION
BRFT -951124YW RECEIVED ON
11/24/95 FOR RENEWAL OF LICENSE

FREQUENCY: 102.3 MHZ

LOCATION: HOMER, AK

OPERATION BEYOND THE LICENSE
EXPIRATION DATE IS AUTHORIZED
PENDING FINAL DETERMINATION ON
YOUR APPLICATION

POSTAGE WILL BE PAID WITH YOUR LICENSE.



FOC 372 (4/95) NOTIFICATION

FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G111

PENINSULA COMMUNICATIONS, INC.
K272CN FM TRANSLATOR
P.O. BOX 109
HOMER, AK 99603

B 2 4



FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G111

THIS IS TO NOTIFY YOU OF ACCEPTANCE
FOR FILING OF APPLICATION
BRFT -951124ZJ RECEIVED ON
11/24/95 FOR RENEWAL OF LICENSE

FREQUENCY: 104.9 MHZ

LOCATION: KODIAK, AK

OPERATION BEYOND THE LICENSE
EXPIRATION DATE IS AUTHORIZED
PENDING FINAL DETERMINATION ON
YOUR APPLICATION.

POSTAL SERVICE CARBON COPY OF LICENSE.



FOC 372 (4/85) NOTIFICATION

PENINSULA COMMUNICATIONS, INC.
K285AA FM TRANSLATOR
C/O PO BOX 109
HOMER, AK 99603



FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G111

THIS IS TO NOTIFY YOU OF ACCEPTANCE
FOR FILING OF APPLICATION
BRFT -951124ZH RECEIVED ON
11/24/95 FOR RENEWAL OF LICENSE

FREQUENCY: 102.7 MHZ

LOCATION: KODIAK, AK

OPERATION BEYOND THE LICENSE
EXPIRATION DATE IS AUTHORIZED
PENDING FINAL DETERMINATION ON
YOUR APPLICATION.

POSTAL SERVICE CARBON COPY OF LICENSE.



FOC 372 (4/85) NOTIFICATION

PENINSULA COMMUNICATIONS, INC.
K274AB FM TRANSLATOR
C/O POST OFFICE BOX 109
HOMER, AK 99603

B 3 4



FROM : KWAVE/KPEN/KBAY/KGTL RADIO

FAX NO. : 907-235-6683

Sep. 19 2001 10:42PM P5

FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G111

THIS IS TO NOTIFY YOU OF ACCEPTANCE
FOR FILING OF APPLICATION
BRET -951124ZE RECEIVED ON
11/24/95 FOR RENEWAL OF LICENSE

FREQUENCY: 100.9 MHZ

LOCATION: KACHEMAK CITY, AK

OPERATION BEYOND THE LICENSE
EXPIRATION DATE IS AUTHORIZED
PENDING FINAL DETERMINATION ON
YOUR APPLICATION

POST THIS CARD WITH YOUR LICENSE.



PENINSULA COMMUNICATIONS, INC.
K265CK FM TRANSLATOR
C/O PO. BOX 109
HOMER, AK 99603

REGISTRATION NOTICE

HALL OF FAME